

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWG Docket No. 11-0446
Julie D. Craig)	
)	
Petitioner)	Decision and Order

1. The hearing by telephone was held on November 8, 2011. Julie D. Craig, the Petitioner, full name Julie Diana Craig (“Petitioner Craig”), participated, representing herself (appears *pro se*). Petitioner Craig is commended for the excellent documentation she provided.

2. Rural Development, an agency of the United States Department of Agriculture (USDA), is the Respondent (“USDA Rural Development”) and is represented by Mary E. Kimball. The address for USDA Rural Development for this case is

Mary E. Kimball, Branch Accountant
USDA / RD New Program Initiatives Branch
Bldg 105 E, FC-22, Post D-2
4300 Goodfellow Blvd
St Louis MO 63120-1703

mary.kimball@stl.usda.gov 314.457.5592 phone
314.457.4426 FAX

Summary of the Facts Presented

3. USDA Rural Development’s Exhibits, plus Narrative, Witness & Exhibit List, were filed on October 13, 2011, and are admitted into evidence, together with the testimony of Mary Kimball. Here, too, USDA Rural Development’s documentation was excellent.

4. Petitioner Craig’s Narrative dated October 27, 2011, plus completed “Consumer Debtor Financial Statement,” plus pay stub PX 1, together with accompanying documents, were filed on October 28, 2011; and filed again on November 8, 2011 (because some parts of the first FAX were missing), and are admitted into evidence, together with the testimony

of Petitioner Craig, together with her Hearing Request and all accompanying documents (filed September 29, 2011).

5. Petitioner Craig owes to USDA Rural Development **\$17,223.35** (as of October 4, 2011), in repayment of a United States Department of Agriculture / Rural Development / Rural Housing Service **Guarantee** (see RX 3, esp. p. 2) for a loan made in 2003, the balance of which is now unsecured (“the debt”). Petitioner Craig borrowed to buy a home in South Carolina. [The loan balance will change, because garnishment is ongoing; the balance will likely have been reduced by the time I sign this Decision.]

6. The **Guarantee** (RX 3) establishes an **independent** obligation of Petitioner Craig, “I certify and acknowledge that if the Agency pays a loss claim on the requested loan to the lender, I will reimburse the Agency for that amount. If I do not, the Agency will use all remedies available to it, including those under the Debt Collection Improvement Act, to recover on the Federal debt directly from me. The Agency’s right to collect is independent of the lender’s right to collect under the guaranteed note and will not be affected by any release by the lender of my obligation to repay the loan. Any Agency collection under this paragraph will not be shared with the lender.” RX 3, p. 2.

7. Potential Treasury fees in the amount of 28% (the collection agency keeps 25% of what it collects; Treasury keeps another 3%) on **\$17,223.35**, would increase the balance by \$4,822.54, to \$22,045.89. See USDA Rural Development Exhibits, esp. RX 11.

8. Petitioner Craig works as a nurse three 12-hour shifts each week, making roughly \$5,200.00 per month gross. Her disposable pay (within the meaning of 31 C.F.R. § 285.11) is roughly \$3,800.00 per month (see PX 1, pay stub dated October 13, 2011). [Disposable income is gross pay minus income tax, Social Security, Medicare, and health insurance withholding; and in certain situations minus other employee benefits contributions that are required to be withheld.]

9. Although garnishment at 15% of Petitioner Craig’s disposable pay has been ongoing for longer than a year and had yielded substantial repayment of the debt (see RX 10), Petitioner Craig has undergone financial hardship as a result. Petitioner Craig has two children to support, her child who is a senior in high school and her 7 month-old child, in addition to herself. Her 7-month old daughter was born during the year of garnishment, substantially increasing her expenses. Petitioner Craig keeps borrowing to pay her reasonable and necessary living expenses for the two children and herself. Petitioner Craig has no money to pay for needed dental work for herself and her daughter: Petitioner Craig’s crown (on a front tooth) broke and needs replacement, and she has no means to pay for that.

10. To prevent hardship, potential garnishment to repay “the debt” (see paragraph 5) must be limited to **0%** of Petitioner Craig’s disposable pay through December 2012; then

up to 7% of Petitioner Craig's disposable pay beginning January 2013 through December 2014; then **up to 15%** of Petitioner Craig's disposable pay thereafter. 31 C.F.R. § 285.11.

11. Petitioner Craig is responsible and willing and able to negotiate the disposition of the debt with Treasury's collection agency.

Discussion

12. Through December 2012, no garnishment is authorized. Beginning January 2013 through December 2014, garnishment up to 7% of Petitioner Craig's disposable pay is authorized; and thereafter, garnishment up to 15% of Petitioner Craig's disposable pay is authorized. *See* paragraphs 8, 9 and 10. I encourage **Petitioner Craig and the collection agency** to **negotiate** the repayment of the debt. Petitioner Craig, this will require **you** to telephone the collection agency after you receive this Decision. The toll-free number for you to call is **1-888-826-3127**. Petitioner Craig, you may choose to offer to the collection agency to compromise the debt for an amount you are able to pay, to settle the claim for less.

Findings, Analysis and Conclusions

13. The Secretary of Agriculture has jurisdiction over the parties, Petitioner Craig and USDA Rural Development; and over the subject matter, which is administrative wage garnishment.

14. Petitioner Craig owes the debt described in paragraphs 5, 6 and 7.

15. **Garnishment is authorized**, as follows: through December 2012, **no** garnishment. Beginning January 2013 through December 2014, garnishment **up to 7%** of Petitioner Craig's disposable pay; and thereafter, garnishment **up to 15%** of Petitioner Craig's disposable pay. 31 C.F.R. § 285.11.

16. I am **NOT**, however, ordering any amounts already collected prior to implementation of this Decision, whether through **offset** or garnishment of Petitioner Craig's pay, to be returned to Petitioner Craig.

17. Repayment of the debt may occur through **offset** of Petitioner Craig's **income tax refunds** or other **Federal monies** payable to the order of Mrs. Craig (whether or not garnishment is authorized).

Order

18. Until the debt is repaid, Petitioner Craig shall give notice to USDA Rural Development or those collecting on its behalf, of any changes in her mailing address; delivery address for commercial carriers such as FedEx or UPS; FAX number(s); phone number(s); or e-mail address(es).

19. USDA Rural Development, and those collecting on its behalf, are **not** authorized to proceed with garnishment through December 2012. Beginning January 2013 through December 2014, garnishment **up to 7%** of Petitioner Craig's disposable pay is authorized; and garnishment **up to 15%** of Petitioner Craig's disposable pay thereafter. 31 C.F.R. § 285.11.

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 14th day of November 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
South Building Room 1031
1400 Independence Avenue, SW
Washington DC 20250-9203
202-720-4443
Fax: 202-720-9776